

U.S. Department of Housing and Urban Development
Community Planning and Development

Special Attention of:

Notice: CPD 98-6

All Secretary's Representatives

Issued: May 5, 1998

All State Coordinators

Expires: May 5, 1999

All CPD Division Directors

All HOME Participating jurisdictions

Cross Reference:

24 CFR Part 92

Subject: Commitment and Expenditure Deadline Requirements for
the HOME Program

1. PURPOSE

The purpose of this notice is to provide procedures for determining whether participating jurisdictions (PJs) have met the requirements for committing and expending funds in accordance with the requirements of 24 CFR 92.500(d) of the HOME Program regulation. This notice updates the procedures in CPD Notice 9707, 9707,

II. BACKGROUND

The HOME Program statute provides that HOME funds are available to participating jurisdictions (PJs) for commitment to affordable housing for a period of 24 months and that at least 15 percent of each PJ's allocation must be reserved for investment in housing to be developed, sponsored, or owned by community housing development organizations (CHDOs). These provisions are implemented by regulation at 24 CFR 92.500(d).

The definition of commitment includes (1) funds that have been committed to a specific project pursuant to a legally binding agreement and the project has been set up in the HOME Cash and Management Information System (C/MIS) or the Integrated Disbursement and Information System (IDIS), and (2) funds for which the PJ has entered into a legally binding agreement with a State recipient, a subrecipient, or a contractor to produce affordable housing or provide tenant-based rental assistance, or has entered into a written agreement reserving a specific amount of funds to a CHDO (see 24 CFR 92.2).

Further, HOME Program funds are available to PJs for expenditure for affordable housing activities for a period of five years. The HOME Program regulation at 24 CFR 92.500(d) provides that HUD will reduce or recapture HOME funds in the PJ's U.S. Treasury account that are not expended within the five year period. (See paragraph V below). Note: Prior to the commitment of HOME program funds, the environmental review and notification requirements of 24 CFR 92.35 must be addressed.

CGHF: Distribution: W-3-1

III. DETERMINING AMOUNTS COMMITTED

In Fiscal Year 1996, many PJs received their grant in two parts. For PJs which received two separate FY 1996 grants, the commitment deadline will be two years from the date of Congressional Notification of the second award. (This date is found in block 12 of form HUD40093, Funding Approval and HOME Investment Partnership Agreement).

There are two requirements for commitment which must be reviewed: total commitments, and commitments to Community Housing Development Organizations (CHDOs).

A. Total Commitments

For purposes of determining whether a PJ has met the requirement for committing Fiscal Year 1996 funds by its deadline, HUD Field Offices must determine whether the sum of commitments, including the sum of commitments to CHDOS, from fiscal years 1996, 1997, and/or 1998 is equal to or greater than the amount of the PJ's FY 1996 allocation. HUD considers subsequent year commitments because it would be unfair to a PJ which because of cancellation of a 1996 funded project, FY 1996 funds remain uncommitted and subject to deobligation when, in fact, the PJ has already committed subsequent years' funds. In determining total commitments, FY 1996 and later year funds reserved for CHDOS, state recipients, and/or other entities and funds committed by the PJ to specific projects are considered when determining whether the PJ has met its commitment requirement. However, if any of the funds reserved to other entities are also committed to specific projects, the amount of these commitments must be subtracted from commitments to specific projects to avoid double counting. Only FY 1996 funds (and not subsequent years' funds) reserved for CHDO operating expenses and program administration may count toward the commitment requirement for FY 1996.

B. Determining Commitments to CHDOs

After reviewing the status of total commitments, Field Offices must review the status of funds reserved for CHDOS. At least 15% of each year's allocation must be reserved for CHDOS. FY 1996 and later year funds that are reserved to CHDOs are considered to be committed. If a PJ has reserved any funds for CHDO capacity building during the first 24 months after its designation as a PJ, these funds will be considered committed and will count toward meeting the CHDO requirement. Thus, funds (up to the limit allowed) that were reserved for CHDO capacity building as of the 24-month deadline will not be deobligated and will remain available for CHDO capacity building. After the 24-month deadline, the PJ may not reserve any additional funds for CHDO capacity building.

C. Data Sources

For PJs that have not been converted to the Integrated Disbursement and Information System (IDIS), Field Staff may monitor total commitments by reviewing the monthly C/MIS Status of Funds Report (C47CAA) to determine the sum of the PJs cumulative commitments. This report shows funds committed to specific local projects by fiscal year source of funds. It also shows whether the PJ has reserved funds for CHDOS, State recipients, and/or other entities.

For PJs that have been converted to the Integrated Disbursement and Information System (IDIS, Field staff may monitor total commitments by reviewing the Status of HOME Grants Report (CO4PR27) which may be generated for HOME PJs within the Field Office Jurisdiction. The Status of HOME Grants Report (CO4PR27) provides information on total commitments and disbursements by fiscal year source of funds. It also shows whether the PJ has reserved funds for CHDOS, State recipients, and/or other entities.

In instances where the CMIS or IDIS reports indicate that less than 100 percent of a PJ's FY 1996 HOME funds had been committed and/or less than 15 percent had been reserved for CHDOs, the Field Office is to notify the PJ and provide it an opportunity to report commitments which are not shown on the HOME C/MIS or IDIS reports. If the PJ chooses to provide additional information, please note that the PJ must provide information on all FY 1996 and later year commitments (if applicable and/or needed to achieve commitment requirements), and not just the balance uncommitted in the HOME C/MIS or IDIS, since commitments to specific projects may also be included in legally binding agreements with State recipients or subrecipients and therefore would be double counted.

If Field Offices need assistance in accessing the C/MIS C47CAA or the IDIS CO4PR27 reports, please call Charlene Williams in the Financial and Information Systems Divisions at (202) 708-3226, extension 4581.

Note: Field Offices may use the forms provided as Enclosures 1 and 2 to this Notice, but are not required to, in determining whether PJs met the commitment requirement.

IV. DEOBLIGATION PROCESS

If it has been determined that funds must be deobligated, the CPD Division Director should notify (by cc:Mail or memorandum), the Office of Affordable Housing Programs, Attention: Charlene Williams, of the proposed deobligation. Then the CPD Division in the Field Office will prepare a Funding Approval and HOME Investment Partnership Agreement (HUD-40093), as indicated below, to deobligate any funds that were not committed by the deadline. This action should be completed no later than 90 days after the PJ's commitment deadline. The funds deobligated must be rounded down to the nearest \$1000 (e.g., rather than deobligating \$59,629.72, the amount to be deobligated must be just \$59,000). The HUD-40093 should be completed as follows:

Item 8 - Previous Obligation: Enter the amount of FY 1996 HOME funds awarded previously (from the original HUD-40093 for the FY 1996 funds).

8.a - Regular Funds: Repeat the amount entered in item 8.
(All funds obligated previously were regular funds.)

8.b - CHDO Reallocation: Leave blank. (None of the previous obligation was from CHDO reallocation funds.)

Item 9 - Current Transaction: Enter the total amount of funds being deobligated by this action. (Either put a minus sign before the amount or parentheses around the amount to indicate the funds are being deobligated.)

9.a - Regular Funds: Repeat the amount entered in item 9. (Since the PJ has only received regular funds, all deobligated amounts should be reported as regular funds.- Again, use minus sign or parentheses.)

9.b - CHDO Reallocation: Leave Blank. (The amount of funds deobligated because the PJ has not met the requirement for CHDOs is to be reported in item 11.)

Item 10 - Revised Obligation: Subtract the amount entered in item 9 from item 8 and enter here.

10.a - Repeat the amount entered in item 10.

10.b - Leave blank.

Item 11 - Special Conditions: If any of the funds are being deobligated because the PJ had not reserved at least 15 percent of its allocation for CHDOs as required by 24 CFR 92.300 and 24 CFR 92.500(d), check box b and indicate in the space in block 11 the amount of funds that are being deobligated because they were not reserved for CHDOs or attach a separate page with this information. (it is important that we keep separate the regular HOME funds being deobligated from the funds that have been deobligated because the PJ had not satisfied the requirement for CHDOs because the reallocation process is different.)

For the purpose of deobligating HOME funds, four copies of the HUD-40093 should be prepared and signed as originals. After the CPD Division Director signs the Agreement (four copies), one copy should be provided to the Field Accounting Division (FAD) for recording the deobligation in the Program Accounting System (PAS). One copy should be sent to the PJ; one copy should be sent to the Office of Affordable Housing Programs, ATTN: Charlene Williams, Room 7168; and finally, one copy should be kept in the Field Office grantee files.

Upon receipt of the HUD-executed HUD40093, FAD will deobligate the funds and will return the funds automatically to HUI) Headquarters for reallocation according to Subpart J of the HOME regulations.

V. DETERMINING AMOUNTS EXPENDED AND REDUCTION OF GRANT

In accordance with 24 CFR 92.500(d), HUD will reduce or recapture HOME funds in the HOME Investment Trust Fund by the amount of any funds in the United States Treasury account that are not expended within five years after the last day of the month in which HUD notifies the PJ of HUD's execution of the HOME Investment Trust Agreement. In determining whether PJs have met the expenditure deadline, HUD considers subsequent year expenditures for the same reasons subsequent year commitments are considered for determining whether the PJ met the commitment requirements (See paragraph III above). For determining whether PJs have met the expenditure deadline for Fiscal Year 1993 funds, the sum of the PJs expenditures from Fiscal Year 1993 through 1998 allocations must equal or exceed the sum of its Fiscal Year 1992 and Fiscal Year 1993 allocations.

For any PJ not meeting the expenditure deadline, HUD will offset the PJ's subsequent HOME allocation by reducing the grant in an amount equal to the amount of funds that was not expended by the PJ. After determining the initial allocation for all PJs, the offset funds will be added to the funds available for allocation and redistributed to all PJs except those whose allocations are being reduced.

Within 30 days of the PJ's expenditure deadline, Field Offices should notify any PJ that did not meet its expenditure deadline in accordance with 24 CFR 92.500(d). The PJ should also be notified of the amount which will be deducted from its Fiscal Year 1999 or subsequent year HOME Program allocation. Copies of the notification should be provided to the Office of Affordable Housing Programs, Attention: Charlene Williams.

NOTE: In accordance with 24 CFR 92.508(c) HOME participating jurisdictions must retain records pertaining to each fiscal year of HOME funds for the most recent five year period. HUD Field Staff must retain records in each PJ's program file to document each PJ's compliance with the 24-month commitment and 5-year expenditure deadline, including actions taken by HUD to deobligate and/or recapture HOME Program funds.

Enclosure 1

PJ

FY 1996 HOME Funds

To Determine CHDO Requirement:

1. Amount that must be reserved for CHDOs to avoid deobligation (15% of Allocation shown on line 4) \$_____ (Enter also in Part A, line 1 of Enclosure 2)
2. Amount reserved for CHDOs in C/MIS \$_____ (including funds for CHDO capacity building)
3. Amount subject to deobligation for failure to meet CHDO Requirement (Line 1 minus line 2; however, if line 2 is equal to or greater than line 1, enter 0) \$_____

To Determine Total Commitment Requirement:

4. Allocation amount \$_____
5. Minus funds reserved for program administration \$_____
6. Minus funds reserved for CHDO operating expenses \$_____
7. Amount that must be committed to avoid deobligation \$_____ (Line 4 minus lines 5 and 6) (Enter also in Part B, line 1 of Enclosure 2)
8. Amount of commitments in C/MIS \$_____ (Includes funds reserved for CHDOS, State Recipients and other entities and funds committed to specific local projects. Note: If funds reserved for CHDOS, State recipients and/or other entities are also committed to specific projects, the amount of these commitments must be subtracted to avoid double-counting when adding the funds reserved to the funds committed to specific local projects for the PJ's overall program.)

6

Amount subject to deobligation for failure to meet total commitment requirement (Line 7 minus line 8; however, if line 8 is equal to or greater than line 7, enter 0) \$_____

Summary of FY 1996 HOME Funds
Report of HOME Funds Under Binding Commitment
Participating jurisdiction_____
Deadline for Committing Funds_____
FY 1995 Allocation_____

Amount of HOME Funds Committed

Part A -CH DO Commitment Requirement

1. FY 1996 CHDO reservation requirement \$_____
(From line 1 of Enclosure 1)
2. Total of HOME funds reserved for CHDOs \$_____
3. Balance to be deobligated
(Line A.1 minus line A.2; however, if line A.2 is
equal to or greater than line A. 1, enter 0)
\$_____

Part B - Total Commitment Requirement

1. FY 1996 commitment requirement \$_____
(From Line 7 of Enclosure 1)
2. Total of HOME funds committed by legally
binding agreements
\$_____
3. Balance to be deobligated
(Line B.1 minus line B.2; however, if line B.2
is equal to or greater than line B.1, enter 0)
\$_____

Certification by Participating jurisdiction:

To the best of my knowledge, the information reported in Parts A
and B above is accurate.

Authorized Official:

Title:

Signature:_____

Date:_____7

Part C - To be completed by HUD

1. To be deobligated and reallocated by competition for CHDOs \$_____
(From line A.3)
2. To be deobligated and reallocated by formula \$_____
(Line B.3 minus line C.1)